

Hinsdale Public Library

Policies and Procedures relating to Requests for Confidential Library Records

A. Confidentiality of Patron records and Court Orders

Personally identifiable information about library users must be kept confidential in accordance with the Illinois Records Confidentiality Act ("the Act"). The Act provides that confidential library records (records pertaining to an individual patron's use of library materials or resources) may not be released or made available in any format to a federal agent, state or local law enforcement officer, or other person without a court order. At the same time library staff must cooperate with federal, state, and local law enforcement agencies when they are acting within the scope of a lawfully issued court order.

However, House Bill 237, Public Act 95-0040 effective 1/1/08, allows an exception to the Library Records Confidentiality Act. Enforcement officers may request information in emergency situations regarding the identity of suspects, witnesses, or victims where the officer believes there is imminent danger of physical harm, provided:

1. A sworn law enforcement officer represents to the library it is impractical to get a court order as a result of an emergency; and
2. The officer has probable cause to believe there is imminent danger of physical harm; and
3. The information requested is limited to identifying a suspect, witness or victim of a crime; and
4. The information requested does not include records reflecting materials borrowed, resources reviewed, or services used at the library.

Only information identifying a suspect, witness or victim of a crime may be disclosed to an officer without a court order. All other information remains confidential without a court order. The library may ask a Court to review whether an officer's request complied with the law. Libraries are protected from patron claims that disclosure under the law constitutes a breach of confidentiality. Finally, the right of a patron to challenge the disclosure remains.

B. Court Orders

A court order may take the form of either a subpoena or a search warrant. A subpoena allows a period of time in which to respond to or contest the court's order. A search warrant can be executed immediately by law enforcement officials.

C. Designated Contact Person

The Executive Director will handle all requests to search library records pursuant to a court order. In the absence of the Director, the staff member designated as being in-charge of the library will handle the request.

D. Responsibilities of the Designated Contact Person

The designated contact person will be responsible for the following actions:

1. Notify the Hinsdale Police Department if the law enforcement officials presenting themselves at the library are from any other jurisdiction.
2. Request identification from the law enforcement officials and record their names, badge numbers and agencies.
3. Provide a copy of this policy to the law enforcement officials promptly upon their arrival at the library.
4. If the law enforcement officials do not have a court order for the information that is being requested, the designated contact will explain that the library is forbidden by law to give access to confidential records without a court order. If the officials are insistent, point out that their case may be jeopardized if the information is obtained improperly.
5. If the law enforcement officials represent to the library that:
 - a. There is imminent danger of physical harm;
 - b. That it is impractical to get a court order as a result of an emergency;
 - c. That the information requested is limited to identifying a suspect, witness or victim of a crime;
 - d. And that the information requested does not include records reflecting materials borrowed, resources reviewed, or services used at the library, then the designated contact will cooperate with the official during the search under the provisions of House Bill 237, Public Act 95-0040.
6. If a court order is received the designated contact will review the court order to determine whether it is a subpoena or a search warrant.
 - a. In the case of a subpoena, tell the official that it will be referred to the Executive Director who will respond after the subpoena is reviewed by the library attorney.

- b. In the case of a search warrant, ask the law enforcement officials to wait until the library attorney is present before beginning the search.
 - c. If the officials refuse to wait the designated contact will ask the officials to wait while he or she attempts to contact the attorney for guidance on complying with the order. The law enforcement officials are not required to wait until the attorney is present.
 - d. If the officials insist on beginning the search immediately the designated contact will cooperate with the officials during the search.
7. The library attorney shall be called immediately.
 8. If the library attorney is not present during the search the designated contact will appoint another staff member to accompany the designated contact during the search.
 9. When cooperating with law enforcement officials during the search, the designated contact will help locate the records/evidence specifically identified in the court order and ensure that no other patron's records are viewed.
 10. No access will be given to any records beyond the scope of the court order, i.e., records not specifically identified in the court order. The designated contact will not volunteer or suggest any additional information beyond that specifically requested in the court order.
 11. The designated contact may communicate with other library staff if needed to obtain the specified information. The contact will not discuss the search with any other individuals, staff or non-staff.
 12. The designated contact will make a list of all records or evidence viewed, copied, or removed from the library pursuant to the order.
 13. The designated contact will require the requesting officer to sign a statement acknowledging receipt of the information. If the Executive Director is not present, the designated contact will notify him or her as soon as possible that the search has taken place.
 14. A sample form of request is provided.

E. Disclosure of a Court Order

If the search warrant is issued by a FISA (Foreign Intelligence Surveillance Act) court it will contain a "gag order." This means that no person or institution served with the warrant can disclose that the warrant has been served or that records have been produced pursuant to the warrant. No library staff member will disclose the receipt of the court order or any information about the records sought to anyone, including the patron whose records are the subject of the search, except the Executive Director and/or the library attorney. Any questions about the incident from the press or any other individuals should be referred to the Executive Director.

Library Records Confidentiality Act (75 ILCS 70/, from Ch. 81, par. 1201)

Sec. 1. (a) The registration and circulation records of a library are confidential information. No person shall publish or make any information contained in such records available to the public unless:

(1) required to do so under a court order; or

(2) the information is requested by a sworn law

enforcement officer who represents that it is impractical to secure a court order as a result of an emergency where the law enforcement officer has probable cause to believe that there is an imminent danger of physical harm. The information requested must be limited to identifying a suspect, witness, or victim of a crime. The information requested without a court order may not include the disclosure of registration or circulation records that would indicate materials borrowed, resources reviewed, or services used at the library. If requested to do so by the library, the requesting law enforcement officer must sign a form acknowledging the receipt of the information. A library providing the information may seek subsequent judicial review to assess compliance with this Section.

This subsection shall not alter any right to challenge the use or dissemination of patron information that is otherwise permitted by law.

(b) This Section does not prevent a library from publishing or making available to the public reasonable statistical reports regarding library registration and book circulation where those reports are presented so that no individual is identified therein.

(b-5) Nothing in this Section shall be construed as a privacy violation or a breach of confidentiality if a library provides information to a law enforcement officer under item (2) of subsection (a).

(c) For the purpose of this Section, (i) "library" means any public library or library of an educational, historical or eleemosynary institution, organization or society; (ii) "registration records" includes any information a library requires a person to provide in order for that person to become eligible to borrow books and other materials and (iii) "circulation records" includes all information identifying the individual borrowing particular books or materials.

(Source: P.A. 95-40, eff. 1-1-08.)

Public Act 095-0040

HB0237 Enrolled

AN ACT concerning libraries.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Library Records Confidentiality Act is amended by changing Section 1 as follows:

(75 ILCS 70/1) (from Ch. 81, par. 1201)

Sec. 1. (a) The registration and circulation records of a library are confidential information. ~~Except pursuant to a court order,~~ No person shall publish or make any information contained in such records available to the public unless:

(1) required to do so under a court order; or

(2) the information is requested by a sworn law enforcement officer who represents that it is impractical to secure a court order as a result of an emergency where the law enforcement officer has probable cause to believe that there is an imminent danger of physical harm. The information requested must be limited to identifying a suspect, witness, or victim of a crime. The information requested without a court order may not include the disclosure of registration or circulation records that would indicate materials borrowed, resources reviewed, or services used at the library. If requested to do so by the library, the requesting law enforcement officer must sign a form acknowledging the receipt of the information. A library providing the information may seek subsequent judicial review to assess compliance with this Section.

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(Source: P.A. 83-179.)

Effective Date: 1/1/2008